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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,350	11/14/2001	Kazuhiro Hayashi	107156-00083	6925

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EXAMINER

WONG, KIN C

ART UNIT PAPER NUMBER

2651

DATE MAILED: 02/26/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/987,350

Applicant(s)

HAYASHI ET AL

Examiner

K. Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ . 6) ☐ Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Claim Objections***

Claim 14 is objected under 37 CFR 1.75 (a) as unclear in the claim language because this claim recited an apparatus and steps. Appropriated correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims (1-22) are rejected under 35 U.S.C. 102(b) as being anticipated by Nishio et al (5848154).

Regarding claims 1 and 15: Nishio et al discloses an information reproducing apparatus (as depicted in figure 2 of Nishio et al) for reproducing information, including:

totaling means for counting and storing a frequency of reproductions for each information (in col. 6, line 48 to col. 7, line 17 where Nishio discloses the totaling means (accounting or accumulating counter) for the number of usage or frequency of reproduction and storing the count);

and control means for controlling reproduction based on a sum total obtained by said totaling means (in col. 9, line 1 to col. 10, line 34 where Nishio et al describes the controlling of the reproduction that basis on the counting).

Regarding claims 2 and 16: Nishio et al teaches that wherein the totaling means does not count the reproduction in a reproduction mode where the information is

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reproduced without user's instruction (in col. 11, lines 25-37 and col. 19, lines 1-16 of Nishio et al).

Regarding claims 3 and 17: Nishio et al teaches that wherein the totaling means counts the reproduction in a repeat reproduction mode just by predetermined frequencies when the same information is reproduced repeatedly more than the predetermined frequencies (in col. 13, lines 8-44 of Nishio et al).

Regarding claims 4 and 18: Nishio et al teaches that wherein the totaling means subtracts a predetermined value from the sum total of a skip target information during a skip reproduction mode (in col. 8, lines 9-67 and col. 13, lines 45-49 of Nishio et al).

Regarding claims 5 and 19: Nishio et al teaches that where further comprising updating means (updating key) for manually updating the sum total mounted on an operation key, wherein the sum total is subtracted or added by a predetermined value (in col. 22, lines 33-47 of Nishio et al).

Regarding claims 6 and 20: Nishio et al teaches that wherein the totaling means adds a predetermined value to the sum total for a piece of music selected for reproduction by a user (in col. 22, lines 33-47 of Nishio et al).

Regarding claims 7 and 21: Nishio et al teaches that wherein the totaling means updates the sum total when the reproduction of information is completed from the beginning to the end (in col. 9, line 29 to col. 10, line 4 of Nishio et al).

Regarding claims 8 and 22: Nishio et al teaches that wherein the totaling means determines whether the sum total should be updated by combining a temporarily stored reproducing status before a stop or pause operation with a status of continued

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reproduction thereafter when detecting that the stop or pause operation is performed (in col. 9, line 29 to col. 10, line 4 of Nishio et al).

Regarding claim 9: Nishio et al teaches that where the control means includes search means for searching based on the sum total obtained by the totaling means (in col. 10, lines 39-67 of Nishio et al).

Regarding claims 10-13: method claims (10-13) are drawn to the method of using the corresponding apparatus claimed in claims (1-9). Therefore method claims (10-13) correspond to apparatus claims (1-9) and are rejected for the same reasons of anticipation as used above.

Regarding claim 14: Nishio et al teaches a storing medium having a computer program recorded in order to reproduce information, the computer program comprising the steps of:

- counting a frequency of reproductions performed for each information;
- storing the frequency of reproductions into storing means; and
- controlling reproduction by reproducing means based on the frequency of reproductions stored by the storing means (in col. 4, line 65 to col. 5, line 11 and col. 5, lines 18-30 of Nishio et al).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Noguchi (5715169) and Weiley (5050031) are cited for reproduction management.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. Wong whose telephone number is (703) 305-7772.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Hudspeth can be reached on (703) 308-4825. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for all communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

kw

22 Feb 04

  
DAVID HUDSPETH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2651